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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,489	05/10/2004	David Low	4020	3488
31424	7590	07/11/2006	EXAMINER	
BABCOCK IP LLC 24154 LAKESIDE DRIVE LAKE ZURICH, IL 60047			STERLING, AMY JO	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 07/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/709,489	<b>Applicant(s)</b> LOW ET AL.	
	<b>Examiner</b> Amy J. Sterling	<b>Art Unit</b> 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14 and 15 is/are allowed.
- 6) ☒ Claim(s) 1,3-6,8,9,11,13 and 16 is/are rejected.
- 7) ☒ Claim(s) 2,7,10 and 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 May 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/31/05</u> | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This is the first Office Action for application number 10/709,489, Stackable Cable Hanger, filed on 5/10/04. Claims 1-16 are pending.

### ***Election/Restrictions***

No claims are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 5/17/06.

The applicant has traversed the requirement stating that all the species are the same. This is unpersuasive in that the elected Species in figure 4 and 5 show an additional element of the adapter plate 60.

### ***Information Disclosure Statement***

The information disclosure statement submitted on 5/10/04 and 10/31/05 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "interconnection

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between the front and rear half shell is frangible" (claim 7) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 16 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 16 recites, "a means for interlocking", and "a means for latching" and the specification does not adequately teach which features are included in each "means".

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claimd 1, 14 and 16 recite, "a front shell half adapted to mate with a rear shell half" and then recites, the front and rear shell half having..." and it is unclear whether the rear shell half is intended to be a positive limitation of the claim. If not, the language should be changed to read, "a front shell half which mates with a rear shell half" to make the limitation clear. The "adapted to" language makes the limitation functional in nature only.

Claim 10 recites the limitation "the front shell half bolt hole" and "the rear shell half bolt hole". There is insufficient antecedent basis for these limitations in the claim.

Claim 11 recites the limitation "the front shell half outer surface and the rear shell half outer surface". There is insufficient antecedent basis for this limitation in the claim.

Claim 12 recites the limitation "the mounting post". There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 6, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 5653411 to Picco et al.

The patent to Picco et al. discloses a cable hanger having a front shell half (6), a rear shell half (1) formed as a unitary component and connected by a hinge (7), each half having an inner surface, the mating of the front and rear shelf halves releasably secured by at least one closure flange (11) of the front half and by one closure fin (401) of the rear shell half, the front and rear shell half each having a vertical mating surface, each having an interlock flange (5, 202) and at least one interlock fin (105, 302) further including a gripping finger (106) which extends within a cable space and a rib (301) projecting from the front shell half inner surface.

Claims 1, 3, 4, 11 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 4099626 to Magnussen, Jr.

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The patent to Magnussen, Jr. discloses a cable hanger having a front shell half (10), a rear shell half (10), each half having an inner surface, the mating of the front and rear shell halves releasably secured by at least one closure flange (14) of the front half and by one closure fin (16) of the rear shell half, the front and rear shell half each having a vertical mating surface, each having an interlock flange/means for interlocking (middle 20, 21) and at least one interlock fin (15) further having at least one side latch/means (right side 20, 21) for latching and at least one side aperture adapted to coupled the side aperture to a third cable hanger positioned connection side to connection side wherein the closure flange, closure fin and interlock flange are positioned about the cable hanger whereby they may be disengaged without accessing the connection side and an interlocking alignment pin (upper surface 20(e) and alignment aperture (21b) formed in each of the front and rear shell half outer surfaces.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 13 is are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 5653411 to Picco et al as applied to claim 1 above.

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Picco et al. does not specifically teach that the material of the device is injection molded made of thermoplastic resin. Picco et al. teaches a mounting device made of plastic (See Col. line for material), used for its resilient and strength properties and it would have been obvious to one of ordinary skill in the art to have made the plastic of thermoplastic resin and injection molded the device since optimizing any suitable material is obvious and well known in the art.

#### ***Allowable Subject Matter***

Claims 14 and 15 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Claims 2, 7, 10 and 12 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following documents show various cable hangers

7007900 to Goodwin et al.

5971663 to Brothers

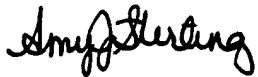
5201484 to Thoen

5046766 to Lomberty et al.



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Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 571-272-6823. The examiner can normally be reached (Mon-Fri 8am-5:00pm). The fax machine number for the Technology center is 571-273-8300 (formal amendments), informal amendments or communications 571-273-6823. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 571-272-3600.



Amy J. Sterling  
AU3632 Primary Examiner  
7/7/06